

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-19-10)
DAVID JOLLY AND BILL ASHE
JANUARY 24, 2020

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a zone change request from 406 Engineering on behalf of David Jolly and Bill Ashe in the Highway 93 North Zoning District. The proposed amendment, if approved, would change the zoning of the subject properties from 'SAG-10 Suburban Agricultural' to 'SAG-5 Suburban Agricultural.'

B. Application Personnel

1. Owners/Applicants

Dave and Christie Jolly
P O Box 8691
Kalispell, MT 59904

William Ashe
1870 Pine Grove Lane
Kalispell, MT 59901

2. Technical Representative

406 Engineering
Nathan Lucke
905 South Main Street
Kalispell, MT 59901

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

This property is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 12, 2020 at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment on March 10, 2020. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

II. PROPERTIES CHARACTERISTICS

A. Subject Properties Location and Legal Description

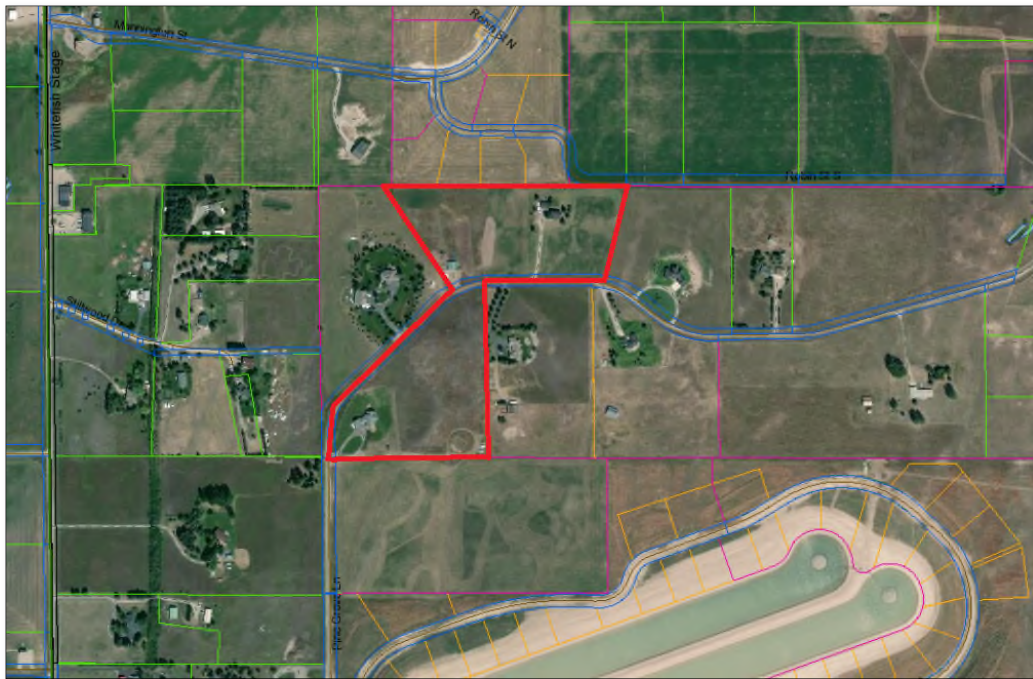
The total acreage of the subject properties is approximately 20.56 acres combined. The subject properties are located at 1870 and 1801 Pine Grove Lane and can legally be described as:

Lot Five (5) of Morningview Meadows, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

And

Lot 2 of Morningview Meadows, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

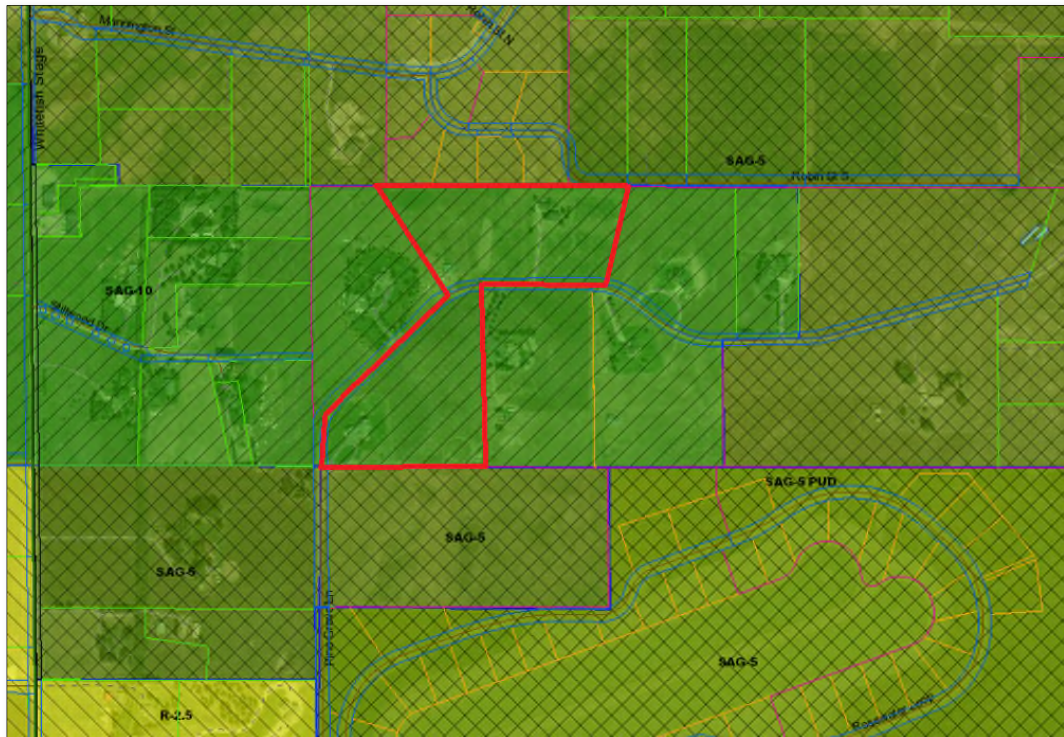
Figure 1: Subject properties (outlined in red)



B. General Character of and Reason for Amendment

The subject properties consists of two tracts owned by two property owners and the lots contain single family dwellings with either attached or detached garages on the gently rolling land. As previously stated, the properties are currently zoned SAG-10 and the applicants are proposing to amend the zoning to SAG-5. The applications state concerning the reason for the proposed zone change, “Want same zoning as the surrounding lots to our north, south, and east (Jolly).” and “New development to the north...may want to give 5 acres to son, want to get the same zoning as is to the north and south of Morningview Subdivision and east at the end of Pine Grove Lane. (Ashe).”

Figure 2: Current zoning on the subject properties (outlined in red)

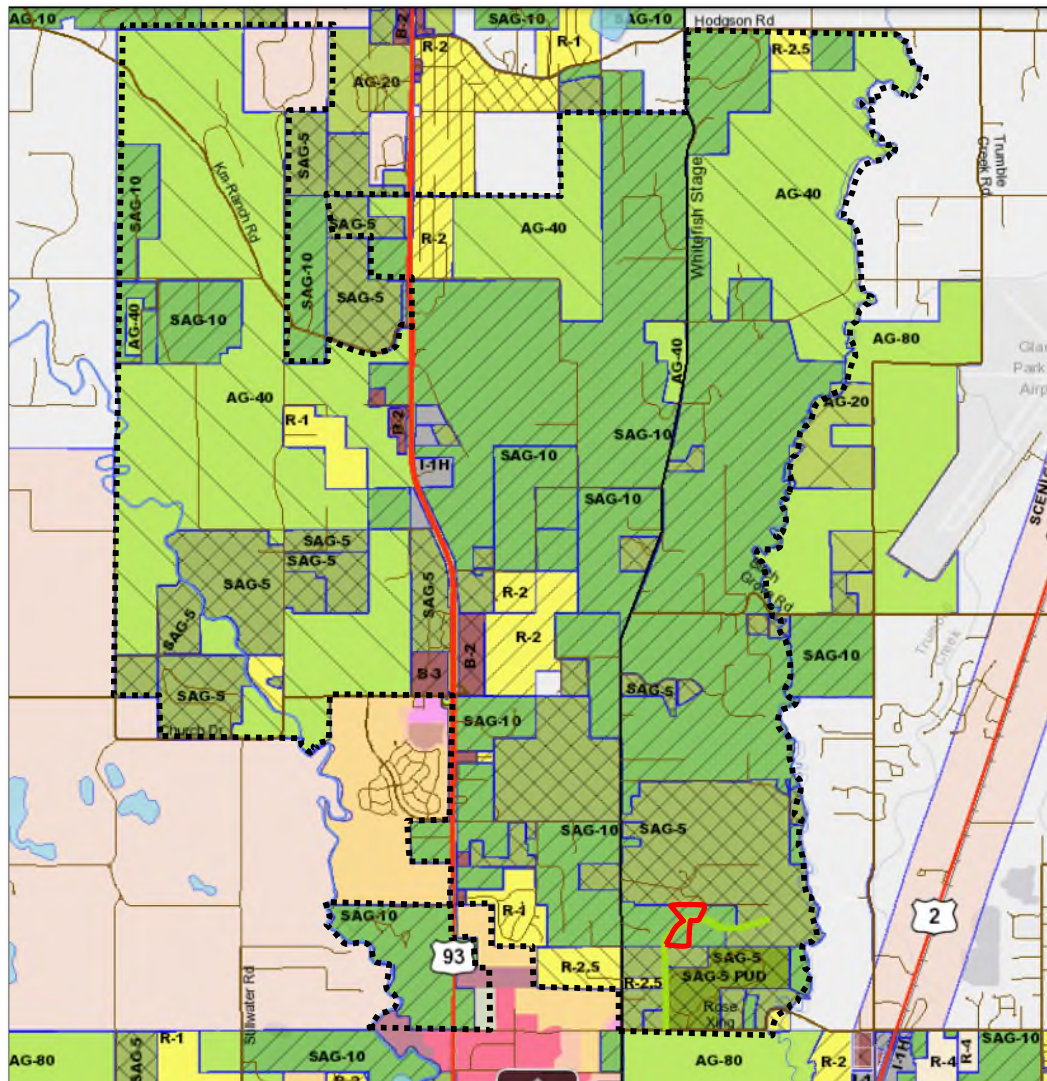


C. Adjacent Zoning and Character of the Overall Zoning District

The properties are located in the Highway 93 North Zoning District. The character of the zoning district in the vicinity of the subject properties is suburban agricultural, agricultural and residential uses. The properties are located on Pine Grove Lane.

The subject properties are bordered on the north and south by properties zoned SAG-10. As the applicants state in their application, “much of the area has already been zoned SAG-5 which will create a consistent and compatible development pattern to the surrounding area.”

Figure 3: Highway 93 North Zoning District (outlined approximately with dashed black line & properties outlined in red)



D. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Edgerton School District Flathead High School District
Fire:	West Valley Fire District
Police:	Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on November 21, 2019:

- Flathead County Sheriff
- Dave Prunty, Public Works/Flathead County Road Department
- Montana Department of Transportation
- Flathead County Solid Waste
- Flathead City-County Health Department
- Flathead County Weeds & Parks Department
- Bonneville Power Administration
- Montana Fish, Wildlife and Parks
- West Valley Fire District
- Glacier Park International Airport

2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: “At this time, BPA does not object to this request, as the properties are located 0.90 and 0.93 miles away from the nearest BPA transmission lines or structures.”
- Flathead Environmental Health Department
 - Referral returned with no written or verbal comment.
- Flathead County Solid Waste District
 - Comment: “The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. North Valley Refuse is the licensed (PSC) Public Service Commission licensed hauler in this area.”
- Flathead County Road & Bridge Department
 - Comment: “The attached criteria report states that Pine Grove Lane is a local County gravel road. Please note that our records indicate that the Pine Grove Lane is a private road. We do not have any concerns at this time with the requested zone change.”
- Flathead Municipal Airport Authority
 - Comment: “The Flathead Municipal Airport Authority (FMAA) has reviewed the zone change request for David Jolly and Bill Ashe in the Highway 93 North Zoning District and provides the following comments:
 - The subject properties located approximately 2.73 miles southwest of Glacier Park International Airport’s (GPIA) Runway 02/20. Subsequently, current owner/s and real estate agents should disclose to prospective buyers that this property may be exposed to aircraft overflights, at low altitudes, producing fumes from exhaust, dust, particles, light vibrations, and aircraft noise.

- Per Title 14 Code of Federal Regulations (CFR) Part 77, the property owner may be required to submit a 7461-1 Notice of Proposed Construction or Alteration via <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> prior to modifying or developing the property, if such modifications penetrate an imaginary plane sloped at a ratio of 100:1 beginning at the pavement edge of the nearest runway. Any proposed heights of structures, temporary equipment, and objects of natural growth that penetrates, will require the sponsor to acquire a determination of no hazard from the Federal Aviation Administration (FAA) pursuant to 14 CFR Part 77.13.
- Portions of these properties are located within the five mile hazardous wildlife buffer pursuant to FAA Advisory Circular 150/5200-33B Hazardous Wildlife Attractants on or Near Airports and may be subject to special considerations contained therein. The property owner/s shall not create a wildlife hazard to aircraft operators defined in AC 150/5200-33B as a result of the proposed development.

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on January 24, 2020. Legal notice of the Planning Board public hearing on this application was published in the January 26, 2020 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment was physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.] on January 8, 2020. Notice will also be published once a week for two weeks prior to the public hearing on February 26 and March 4, 2020 in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for February 9, 2020 and/or the Commissioner's Public Hearing scheduled for March 10, 2020. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.07 of the Flathead County Zoning Regulations (FCZR), SAG-10 is defined '*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

The SAG-5 designation is defined in Section 3.08 FCZR as, '*A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

The permitted uses and conditional uses for the proposed and existing zoning varies greatly. The amendment would decrease the number of permitted uses from 20 to 16 and increase the number of conditional uses from 24 to 29. There are two permitted use within the SAG-10 zone not listed in SAG-5:

- Dairy products, processing, bottling, and distribution, and
- Ranch employee housing.

The permitted uses listed within the SAG-10 that are listed as conditional uses in SAG-5 are as follows:

- Cellular tower,
- Riding academy, rodeo arena, and
- Stable, public.

The conditional uses listed within the SAG-5 but not allowed in SAG-10 are:

- Recreation facility and
- Recreational vehicle park

The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the proposed and current zoning. For SAG-10 the permitted lot coverage is 20% and maximum

height is 35 feet and for SAG-5 the permitted lot coverage is 25% and maximum height of 35 feet.

The existing zoning requires a minimum lot area of ten acres. The subject property total is 20.56 acres, no additional lots could be created under the existing zoning. The proposed zoning requires a minimum lot area of five acres, therefore two additional lots could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar but the amendment would reduce the number of permitted uses while increasing the number of conditional uses.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed Suburban Agricultural zoning classification would appear to comply with the current Suburban Agricultural designation. Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

❖ **G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.**

○ The approval of the zone change would allow the applicants to continue use or develop their property in a similar manner to that of adjacent landowners thereby protecting the rights of all property owners.

❖ *G.4 – Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*

- *P.4.3 – Identify a desirable gross density for rural residential development that retains land value, preserves the agricultural character of the community and allows for efficient provision of government services (law enforcement, fire protection, transportation, etc).*

- The subject properties are located in an area of Flathead County that is transitioning from predominantly agricultural to a suburban residential nature. The SAG-5 zoning designation would allow the property owners to continue the similar uses of SAG-10 while allowing them to develop at a density that buffers larger scale agricultural use to the north from the higher densities found in the City of Kalispell.

❖ *G.8 – Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*

- The SAG-5 designation would allow for development at densities of 1 dwelling unit per 5 acres which can be served by the existing transportation and emergency service infrastructure. If further developed, the properties could continue to be served by wells and wastewater treatment systems based on the minimum lot size of the SAG-5 zoning designation.

❖ *G.23 – Maintain safe and efficient traffic flow and mobility on county roadways.*

- *P.23.2 – Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*

- *P.23.4 – Recognize areas in proximity to employment and retail centers as more suitable for higher residential densities and mixed use development.*

- This report contains discussion on the proposals potential burden on transportation below.

❖ *G.31 – Growth that does not place unreasonable burden on the school district to provide quality education.*

- Further discussion is contained below in this report on the adequate provision of schools below.

❖ *G.32 – Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*

❖ *G.33 – Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*

- This report contains discussion on the adequacy of emergency service below.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the Suburban Agriculture land use designation.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

According to the application, “The property is located within the West Valley Fire District and the West Valley Emergency Response District. The property is not on a seismic fault line as shown on the maps within the Flathead County Growth Policy. The property is not within the 100-year floodplain. There are no dangers that have been identified that would be a concern for this rezoning.”

The subject properties are located within the West Valley Fire District and the nearest fire and emergency response center is located approximately 1.6 road miles east of the property on Whitefish Stage. The West Valley Fire Department would respond in the event of a fire or medical emergency. The West Valley Fire Department did not provide comments on this proposal. The subject properties are not located within the Wildland Urban Interface (WUI) or within a fire district priority area.

The subject properties are located on Pine Grove Lane which is classified as a gravel private road within a 60 foot easement. The road appears adequate to provide ingress and egress for emergency services. The subject properties are gently rolling, without dangers of avalanche or slumping. There is no floodplain on the property.

FEMA FIRM Panel 30029C1420J shows the property as located within an unshaded Zone X an area determined to be outside the 0.2% annual chance floodplain. There is a low chance of flooding on the subject property.

Finding #2: The proposed map amendment will not impact safety from fire and other danger because the properties are not located in the WUI, is located on an MDT maintained secondary highway, is located 1.6 road miles from the nearest fire station and is not in the 100 year floodplain.

b. Promote public health, public safety, and general welfare;

The application states, “The zoning is proposed on property adjacent to a county roadway. As noted above, the property is in the West Valley Fire and Emergency Response Districts. The rezoning will allow the property to be similar to the surrounding neighborhood developments promoting public health, safety and the general welfare.”

The properties are located on Pine Grove Lane, a gravel private two lane road within a 60 foot easement that appears adequate to provide access for emergency services ensuring adequate public health and safety. The West Valley Fire Department would respond in the event of a fire or medical emergency. The Flathead County Sheriff’s Department currently provides and will continue to provide police services to the subject property.

The permitted uses and conditional uses for the SAG-10 and the SAG-5 zoning designations are very similar. While the number of lots could increase if the zone change is approved, the type of land uses would remain the same and impacts to public health, safety and general welfare would be minimal and acceptable if the bulk and dimensional requirements of the SAG-5 zoning designation are adhered to.

Finding #3: The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the properties are served by the West Valley Fire Department and the Flathead County Sheriff, the properties are accessed via a gravel private two lane road within a 60 foot easement and the SAG-5 zoning would allow for similar uses to what already exist in the area.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Primary access to the properties is currently off Pine Grove Lane, a gravel private two lane road within a 60 foot easement. The Road and Bridge Department traffic count west of US 2 for Rose Crossing indicate an Annual Average Daily Traffic (AADT) count for 2019 of 2545. The addition of 20 vehicle trips per day will be minimal to Rose Crossing with an increase of 3.86 percent in traffic.

Stated in the application, “The properties are accessed via Pine Grove Lane, a local county gravel road. Pine Grove is accessed via Rose Crossing and Whitefish Stage Road, both of which are paved minor arterials according to Map 6.1 of the Growth Policy. These roadways provide adequate transportation facilities for the properties. Further, Rose Crossing is a proposed connector and Whitefish Stage Road is a proposed arterial trail on the Bike and Pedestrian Path Network on Map 6.2 of the Growth Policy. These trail network plans provide for additional transportation alternatives as they are developed and as the area continues to be developed at greater intensities.”

The Montana Department of Transportation did not submit comment on this proposal and the Flathead County Road and Bridge Department did not have any concerns.

The subject properties are serviced by individual well and septic. The applicants will be required to work with Flathead City-County Environmental Health Department and MT Department of Environmental Quality for future development to comply with Title 76-4-1 MCA Sanitation in Subdivisions. The review includes potable water supply, wastewater treatment and disposal, stormwater drainage, and solid waste.

According to the application, “Surrounding well logs indicated adequate water supply. Soils are suitable for disposal of sewer through on-site wastewater treatment systems.”

While the subject properties are located within the Flathead High School District and Edgerton Elementary School District, neither school district provided comments on the proposal. The proposed zoning has the potential to generate school children but is not likely to impact either school. According to census data for Flathead County, the average household size is 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. The proposal has the potential to generate two additional dwellings and therefore could generate approximately one school age child.

Finding #4: The proposed amendment would facilitate the adequate provision of transportation water, sewerage, schools, parks, and other public requirements because future growth would lead to a minimal increase in traffic on Pine Grove Lane and Rose Crossing, further division of land on the subject properties would require review through the Flathead City-County Environmental Health Department and the Montana Department of Environmental Quality, there would be minimal impact on parks and the proposal has the potential to generate one school age child.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

The application states, “The proposed new zoning district have nearly identical requirements except the minimum lot size is 5 acres for SAG-5 versus 10 acres for SAG-10. As such, the new zoning would provide for adequate light and air.”

The bulk and dimensional requirements, which includes setbacks, have been established to provide for a reasonable provision of light and air. The setback requirements are the same in the proposed SAG-5 zoning designation as the existing zoning. The required setback from the boundary line is 20 feet from all properties boundaries for the principal structure, 20 feet from the front and side corner on accessory structures and 5 feet from the rear and side on accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as properties boundaries and an additional 20 foot setback is required from county roads classified as collector and arterials. The bulk and dimensional requirements for the SAG-5 zoning designation have been established to provide for a reasonable provision of light and air.

Finding #5: The proposed zoning map amendment will provide adequate light and air to the subject properties because future development will be required to meet the bulk and dimensional requirements within the proposed SAG-5 designation.

b. The effect on motorized and non-motorized transportation systems;

Primary access to the properties is currently off Pine Grove Lane, a gravel private two lane road within a 60 foot easement. The Road and Bridge Department traffic count west of US 2 for Rose Crossing indicate an Annual Average Daily Traffic (AADT) count for 2019 of 2545. The addition of 20 vehicle trips per day will be minimal to Rose Crossing with an increase of 3.86 percent in traffic.

Concerning traffic, the application states, “The new zoning would allow for a total of two additional lots on the acreage to be rezoned. Two additional lots would have insignificant effects on motorized and non-motorized transportation systems. As noted above, the properties are accessed via a gravel road, Pine Grove Lane, which is accessed via Rose Crossing and Whitefish Stage Road (both paved minor arterial roadways) providing for adequate transportation facilities to serve the area. There are also planned non-motorized transportation facilities on Rose Crossing and Whitefish Stage Road depicted in the Flathead County Growth Policy.”

The Flathead County Road and Bridge Department did not have any concerns with and the Montana Department of Transportation did not submit comment on this proposal.

If the zoning amendment is approved, two additional lots could be created in total. Using standard trip generation, residential uses generate traffic at typically 10 vehicle trips per single family residential use.

The Flathead County Trails Plan identifies Rose Crossing as a connector bike/pedestrian trail at some undetermined time in the future. It is anticipated there will be minimal impact on non-motorized traffic because the properties access Rose Crossing from Pine Grove Lane and are not directly adjacent to Rose Crossing.

Finding #6: Effects on motorized and non-motorized transportation systems will be minimal because the traffic generated by the proposed zoning would be minimal, the properties are not adjacent to a future pedestrian/bike trail and the Flathead County Road and Bridge Department did not have any concerns with the proposal.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The applicant addresses compatible urban growth with the following response. “This area is located within the growth policy area of Kalispell and is shown as urban residential within their growth policy. The Suburban Agricultural zoning classification proposed on this property is generally compatible with the growth policy of Kalispell, especially with the change to a slightly denser zoning of 5 acres minim lot size instead of 10 acres. It should be noted that although the area is in the growth policy area of Kalispell, it is located outside the planned annexation boundary.”

Kalispell is the nearest municipality to the subject properties and is located approximately 0.37 miles southwest of the subject properties. The Kalispell Growth Policy Planning Area Map designates the properties as Suburban Residential. The proposed SAG-5 Suburban Agriculture zoning district would provide a slightly higher density than the existing SAG-10 Suburban Agriculture zoning and allows for small-scale agriculture and estate residential use. It appears that the proposed zoning designation would be compatible with urban growth in the vicinity of Kalispell.

Finding #7: It appears that the proposed zoning designation would be compatible with urban growth in the vicinity of Kalispell because the properties are classified as Suburban Residential according to the City of Kalispell Growth Policy Future Land Use Area and the proposed zoning designation allows for compatible density and use in suburban residential areas.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is

different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. ***The zoning allows a use that differs significantly from the prevailing use in the area.***

The proposed SAG-5 zoning designation would allow for agricultural and single family residential use on five acre lots, similar to what exists in the area presently. As explained above, the SAG-5 and SAG-10 zoning districts allow for similar conditional and permitted uses. Rezoning the properties from SAG-10 to SAG-5 will provide the landowners with flexibility to develop their land in a harmonious manner with adjacent agricultural use.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

The application for the zone change covers approximately 20.56 acres owned by 2 landowners. The lots in the zoning amendment are located adjacent to existing SAG-5 zoning to the north and south. The proposal will be an extension of the current SAG-5.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

As previously stated the proposed zone change would benefit two landowners, cover a 20.56 acre area and be an extension of existing SAG-5 zoning on both the north and south. The proposed zone change would not benefit two landowners at the expense of surrounding landowners because of the compatible nature of the two zoning designations and the existing SAG-5 zoning adjacent to the properties.

The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #8: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would still be classified as suburban agriculture, would allow for similar and compatible uses and is adjacent to existing SAG-5 zoning.

e. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The subject properties is located within the Highway 93 North Zoning District and adjacent to SAG-5. The application states, "Since many of the surrounding parcels are already 5 acres in size, this rezoning will bring consistency and value to the community. Since the neighboring parcels to the north, east and south are already zoned SAG-5 and since many of the nearby parcels are already 5 acres in size, this new zoning may be more appropriate for the jurisdictional area rather than the current SAG-10 zoning." The proposed zoning differs from current zoning primarily because of minimum lot size although there are slight differences in permitted and conditional uses.

Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. Many of the land uses listed as permitted uses in the proposed SAG-5 zone exist in the vicinity of the subject properties including residential and agricultural use. Because of the similar uses and the relatively low density potential of the two zoning districts, it appears the zone change would not allow for incompatible uses.

Finding #9: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed SAG-5 zoning designation allows for similar uses and density to the neighboring suburban agricultural zoning and will be an extension of the current adjacent SAG-5 zoning.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

As previously stated, the subject properties is located within the boundaries of the City of Kalispell Growth Planning Area Map, adopted by the City of Kalispell in 2017. The subject properties is designated as Suburban Residential and the closest city boundaries are approximately 2.8 miles southwest of the subject properties.

The nearest City of Kalispell zoning is R-3/PUD, R-4/PUD and B-1/PUD, with the R-4/PUD and B-1/PUD located at the northwest corner of the Rose Crossing and Whitefish Stage intersection. The Kalispell R-3 and R-4 zones are residential zones that allow for single family residential on 6,000 square foot lots, respectively. The B-1 Neighborhood Business zoning allows for certain commercial and professional office uses where they are compatible with adjacent residential areas. The minimum lot area for this zoning designation is 7000 square feet. The Suburban Agriculture zoning designations (SAG-10 and SAG-5) are designed to function as a buffer between urban residential and agricultural areas. The amendment appears to be, as nearly as possible, compatible with the zoning ordinance of the City of Kalispell.

Finding #10: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed Suburban Agriculture zoning designation is designed to act as a buffer between residential and agricultural zoning designations.

I. SUMMARY OF FINDINGS

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request and the Suburban Agriculture land use designation.

Finding #2: The proposed map amendment will not impact safety from fire and other danger because the properties are not located in the WUI, is located on an MDT maintained secondary highway, is located 1.6 road miles from the nearest fire station and is not in the 100 year floodplain.

Finding #3: The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the properties are served by the West Valley Fire Department and the Flathead County Sheriff, the properties are accessed via

a gravel private two lane road within a 60 foot easement and the SAG-5 zoning would allow for similar uses to what already exist in the area.

Finding #4: The proposed amendment would facilitate the adequate provision of transportation water, sewerage, schools, parks, and other public requirements because future growth would lead to a minimal increase in traffic on Pine Grove Lane and Rose Crossing, further division of land on the subject properties would require review through the Flathead City-County Environmental Health Department and the Montana Department of Environmental Quality, there would be minimal impact on parks and the proposal has the potential to generate one school age child.

Finding #5: The proposed zoning map amendment will provide adequate light and air to the subject properties because future development will be required to meet the bulk and dimensional requirements within the proposed SAG-5 designation.

Finding #6: Effects on motorized and non-motorized transportation systems will be minimal because the traffic generated by the proposed zoning would be minimal, the properties are not adjacent to a future pedestrian/bike trail and the Flathead County Road and Bridge Department did not have any concerns with the proposal.

Finding #7: It appears that the proposed zoning designation would be compatible with urban growth in the vicinity of Kalispell because the properties are classified as Suburban Residential according to the City of Kalispell Growth Policy Future Land Use Area and the proposed zoning designation allows for compatible density and use in suburban residential areas.

Finding #8: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would still be classified as suburban agriculture, would allow for similar and compatible uses and is adjacent to existing SAG-5 zoning.

Finding #9: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed SAG-5 zoning designation allows for similar uses and density to the neighboring suburban agricultural zoning and will be an extension of the current adjacent SAG-5 zoning.

Finding #10: The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed Suburban Agriculture zoning designation is designed to act as a buffer between residential and agricultural zoning designations.

II. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: DV